

By: Representative Baker (74th)

To: Judiciary B

## HOUSE BILL NO. 81

1 AN ACT TO AMEND SECTION 11-53-81, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE RECOVERY OF ATTORNEY'S FEES ON OPEN ACCOUNTS OR  
3 OTHER LAWFUL DEBTS; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 11-53-81, Mississippi Code of 1972, is  
6 amended as follows:

7 11-53-81. When any person fails to pay an open account or  
8 other lawful debt within thirty (30) days after receipt of written  
9 demand therefor correctly setting forth the amount owed and an  
10 itemized statement of the account or debt in support thereof, that  
11 person shall be liable for reasonable attorney's fees to be set by  
12 the judge for the prosecution and collection of such claim when  
13 judgment on the claim is rendered in favor of the plaintiff.  
14 Evidence of receipt of written demand by the spouse of the debtor  
15 when they are living together as husband and wife on behalf of the  
16 debtor may be introduced as evidence of written demand on the  
17 debtor. If that person sued on the open account or other lawful  
18 debt shall prevail in the suit, he shall be entitled to reasonable  
19 attorney's fees to be set by the judge.

20 If delivery of written demand on the debtor is attempted, but  
21 not accomplished because circumstances made delivery of written  
22 demand impossible, a notation, on the envelope containing the  
23 written demand, made by the person attempting delivery stating the  
24 date of the attempted delivery, the reasons why delivery could not  
25 be accomplished along with the initials of the person attempting  
26 delivery and making said notation may be introduced as evidence of  
27 written demand on the debtor, and if the judge in his discretion

28 finds that sufficient evidence of due diligence in delivery of  
29 written demand has been made, he may make a conclusion of written  
30 demand for purposes of justice and find that there has been  
31 written demand on the debtor.

32       **SECTION 2.** This act shall take effect and be in force from  
33 and after July 1, 2006.